

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OLIVIA ROBERTSON, et al.,

Case No. 19-10266

Plaintiffs,

Stephanie Dawkins Davis

v.

United States District Judge

BREAKTHROUGH TOWING, LLC,

Defendants.

**ORDER STRIKING DEFENDANTS BREAKTHROUGH TOWING, LLC,
MAGIC TOWING, LLC, AND MICHAEL DICKERSON'S MOTION TO
DISMISS SECOND AMENDED COMPLAINT [ECF NO. 129]**

Plaintiffs in this action are individuals who allege that the Defendants engaged in a scheme to illegally and improperly tow their vehicles from the parking lots of various business establishments in the Detroit metropolitan area. They brought suit in this court against Defendants for their alleged involvement in the wrongful scheme. (ECF No. 1). Following a status conference held on March 5, 2020, the court issued an order addressing a number of housekeeping matters, which included striking a number of responsive pleadings to Plaintiffs' Second Amended Complaint ("SAC") and advising the parties that the court would issue a briefing schedule concerning responses to the SAC after ruling on Plaintiffs' motion for reconsideration regarding its order on McDonald's Corp.'s motion to dismiss. (ECF No. 98).

This court subsequently entered an order on October 7, 2020 granting the Plaintiffs' motion for reconsideration. (ECF No. 104). In the order, the court directed Defendants to file their responses to Plaintiffs' second amended complaint within 28 days of the issuance of the order—by November 4, 2020. (*Id.* at PageID.2247). Without explanation and without first seeking leave of court to do so, Defendants Breakthrough Towing, LLC, Michael Dickerson, and Magic Towing, LLC filed their Motion to Dismiss the Second Amended Complaint on December 21, 2020—over six weeks beyond the court's deadline.

Pursuant to Fed. R. Civ. P. 6(b), this court may, for good cause, extend the time that a party has to complete a specified action on motion made by the party after the time to perform the action has expired due to excusable neglect. Here, Defendants filed their motion to dismiss more than six weeks past the court's deadline. Pursuant to the Federal Rules, if Defendants needed additional time, they should have filed a motion for leave in order to file their late motion. They did not do so. Nor have they offered any explanation for the late filing, such that the court is in any position to evaluate whether good cause to excuse the delay in filing exists.

Accordingly, the court **STRIKES** Defendants' Motion for failing to comply with this court's October 7, 2020 order and for failing to request leave to file their motion late.

SO ORDERED.

Dated: February 19, 2021

s/Stephanie Dawkins Davis
HON. STEPHANIE DAWKINS DAVIS
United States District Court Judge